

Remarks:

Reconsideration of the application is requested.

Claims 2-9 and 16-24 are now in the application. Claims 2-9 and 16-18 have been amended. A marked-up version of the claims is attached hereto on separate pages. Claims 1 and 11-15 have been cancelled. New claims 21-24 have been added.

In the first paragraph on page 2 of the above-identified Office action, the drawings have been objected to because there is no pivotable connection shown. The Examiner further stated that while different orientations are shown in various Figures, there is no disclosure of any structure enabling these orientations to occur. Fig. 1 has been amended so as to diagrammatically show the pivotable connection, so as to overcome the objection by the Examiner.

In the second paragraph on page 2 of the Office action, the drawings have been objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. The Examiner stated that the dishwasher and rack's top and bottom of claims 11-14 must be shown or the features cancelled from the claims. Claims 11-14 have been cancelled so as to facilitate prosecution of the application.

In the fourth paragraph on page 2 of the Office action, the specification has been objected to because it is unclear as to what elements constitute the "dish rack 1" and what elements constitute the "dish rack base 2" since the Figures appear to show them to be one and the same. It is noted that the dish rack base 2 includes a plurality of wires 3 and the dish rack 1 includes the dish rack base 2 along with the rest of the elements shown. This is described in the specification at page 8, lines 1-4.

In the second paragraph on page 3 of the Office action, the specification has been objected to as failing to provide proper antecedent basis for the claimed subject matter of "comb-shaped retaining configuration". The Examiner further stated that there is no discussion of this language in applicant's remarks. The claims have been amended so as to overcome the objection by the Examiner.

In the third paragraph on page 3 of the Office action, claim 8 is objected to because the hyphen between "dish" and "rack" should be deleted in order to maintain consistency of terminology. It is respectfully noted that there is no hyphen between "dish" and "rack" in claim 8 of the instant application. Therefore claim 8 has not been amended to overcome the objection by the Examiner.

In the fifth paragraph on page 3 of the Office action, claims 1-9 and 11-20 are rejected as being indefinite under 35 U.S.C. § 112.

More specifically, the Examiner has stated that with respect to claims 1, 11, and 15 it is unclear to what applicant is attempting to define with the recitation of "prongs as integral dish rack components". The Examiner further asked what is "integral"? The Examiner further asks is applicant setting forth that each prong is an integral prong? The Examiner further asks is applicant setting forth that each prong is integrally connected to some other component of the dish rack? The Examiner asks what exactly is supposed to be integral with what? It is noted that claims 1, 11, and 15 have been cancelled so as to facilitate the prosecution of the application.

It is accordingly believed that the specification and the claims meet the requirements of 35 U.S.C. § 112, first and second paragraphs. Should the Examiner find any further objectionable items, counsel would appreciate a telephone call during which the matter may be resolved. The above-noted changes to the claims are provided solely for cosmetic or clarificatory reasons. The changes are not provided for overcoming the prior art nor for any reason related to the statutory requirements for a patent.

In the third paragraph on page 4 of the Office action, claims 1-9 and 11-20 have been rejected as being fully anticipated by Remmler (U.S. Patent No. 5,649,630) under 35 U.S.C. § 102.

The rejection has been noted and the claims have been amended in an effort to even more clearly define the invention of the instant application. Support for the changes is found in Figs 1-4.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claims 21 and 22 call for, inter alia:

"a plurality of prongs each having at least two legs and an intersection connecting said legs to one another, each of said prongs being connected to a respective one of said base wires in a vicinity of said intersection, and at least some of said prongs being pivotable between different pivot positions about a respective one of said base wires."

The Remmler reference discloses dish racks (20 and 22) with a removable dish holder (40). The pins (52) have a plurality of upwardly extending portions (62) with a free end, and outwardly extending portions (60) with free ends and a base

wire (50). The free ends of the outwardly extending portions (60) are connected to the base wire (50).

The reference does not show a plurality of prongs each having at least two legs and an intersection connecting the legs to one another, each of the prongs being connected to a respective one of the base wires in a vicinity of the intersection, and at least some of the prongs being pivotable between different pivot positions about a respective one of the base wires, as recited in claims 21 and 22 of the instant application. The Remmler reference discloses pins (52), which are attached to the base wire (50) at the free ends of the outwardly extending portions (60). This is contrary to the invention of the instant application, in which the prongs are connected to the base wire in a vicinity of the intersection of the at least two legs.

Regarding claim 23, it is noted that claim 23 calls for, inter alia:

"said plurality of prongs each having at least two legs and an intersection connecting said legs to one another, each of said prongs being connected to said base wire in a vicinity of said intersection for securing dishware, and at least some of said prongs being pivotable between different pivot positions about said base wire."

The reference does not show the plurality of prongs each having at least two legs and an intersection connecting the legs to one another, each of the prongs being connected to the base wire in a vicinity of the intersection for securing dishware, and at least some of the prongs being pivotable between different pivot positions about the base wire, as recited in claim 23 of the instant application. The Remmler reference discloses pins (52), which are attached to the base wire (50) at the free ends of the outwardly extending portions (60). This is contrary to the invention of the instant application, in which the prongs are connected to the base wire in a vicinity of the intersection of the at least two legs.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 21, 22 and 23. Claims 21, 22 and 23 are, therefore, believed to be patentable over the art and since all of the dependent claims are ultimately dependent on claims 21, 22, or 23 they are believed to be patentable as well.

In view of the foregoing, reconsideration and allowance of claims 2-9 and 16-24 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel respectfully requests a telephone call so that, if possible, patentable language can be worked out.

Please charge any other fees which might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner & Greenberg P.A., No. 12-1099.

Respectfully submitted,



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Marked-up version of the claims:

Claim 2 (twice-amended). The dish rack according to claim [1] 21, wherein [said comb-shaped retaining configuration is] at least some of said legs are pivotable into a horizontal position, a vertical position, and oblique positions different from said horizontal position and said vertical position.

Claim 3 (twice-amended). The dish rack according to claim 2, wherein [said angled ends] at least some of said legs form a set-down surface for hollow dishes when [said comb-shaped retaining configuration is] at least some of said legs are pivoted into at least one of said oblique positions.

Claim 4 (twice-amended). The dish rack according to claim 2, wherein [said angled ends] at least some of said legs form a set-down surface when [said comb-shaped retaining configuration is] at least some of said legs are pivoted into an oblique position half-way between said horizontal position and said vertical position.

Claim 5 (twice-amended). The dish rack according to claim 2, wherein [said angled ends] at least some of said legs form stops for retaining hollow dishes in said horizontal position.

Claim 6 (twice-amended). The dish rack according to claim 2, wherein [said angled ends] at least some of said legs form stops for retaining hollow dishes in at least one of said oblique positions.

Claim 7 (amended). The dish rack according to claim [1] 21, wherein only staggered ones of said prongs [has an angled end] have at least two of said legs forming a stop for retaining hollow dishes.

Claim 8 (amended). The dish rack according to claim [1] 21, wherein every second prong of said prongs has [an angled end] at least two of said legs forming a stop for retaining hollow dishes.

Claim 9 (amended). The dish rack according to claim [1] 21, wherein said prongs [with angled ends] having at least two legs are L-shaped.

Claim 16 (amended). The dish rack according to claim [15] 23, wherein said prongs [with an angled end] having at least two legs are L-shaped.

Claim 17 (twice-amended). The dish rack according to claim 16, wherein said [at least one comb-shaped] retainer is pivotable into a horizontal position, a vertical position, and

oblique positions different from said horizontal position and said vertical position.

Claim 18 (twice-amended). The dish rack according to claim 17, wherein [said angled end] a least one of said legs forms a set-down surface for hollow dishes when said [comb-shaped] retainer is pivoted into at least one of said oblique positions.